THE HONOURABLE SRI JUSTICE J. CHELAMESWAR
AND
THE HONOURABLE SRI JUSTICLE D. APPA RAO

W.P. NO. 4178 of 2006

DATED:13-09-2006

Between:-

Kunja Jayamma w/o Kunja Babu, aged about 55 years,
R/o Ikyanagar, Perala, Chirala Taluk, Prakasham District.

…PETITIONER

And

The Secretary, Government of A.P. Department of Home, Hyderabad and 10 others.

..RESPONDENTS

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O R D E R (Per Hon'ble Sri Justice D. Appa Rao)

The petitioner seeks production of her husband, Kunja Babu, and her son, Venkataiah, to be produced by way of a writ of Habeas Corpus.

The petitioner alleges in her petition that earlier she along with her family members residing at Perala, Prakasham Districtr. They shifted to Anantapur to eke-out their livelihood. Police party of Anantapur and Cuddapah taken all her family members into illegal custody on 18-05-2005, later produced before the Judicial Magistrate of First Class, Proddutoor on 18-06-2005. W.P. No. 1169 of 2005 was filed and in view of their production before the learned Magistrate, the writ petition was dismissed, with a specific direction to work out their remedies available under law. Criminal cases were registered against them. They returned to their original place, Perala. On 11-01-2006 police party consisting of six members came to her house, took away her husband Kunja Babu and was kept him in illegal detention. Thereafter, in the first week of February, 2006 again police party consisting of 15 persons came to her house, took away her son Venkataiah. Police were torturing her son. Since then her son's whereabouts were not known. Therefore, she prayed Kunja Babu and Venkataiah be produced and action be taken against the respondents.

The 3rd respondent, Superintendent of Police, Prakasham

District filed counter *inter alia* stating that the first detenu Kunja Babu, was involved in a case in Crime No. 4/2006 under Section 307 IPC of II Town Police Station, Chirala. He was arrested on 31.1.2006 and was produced before the learned Additional Munsif Magistrate, Chirala on 1-2-2006, who remanded him to judicial custody. He was presently lodged at District Jail, Ongole. The second detenu, Venkataiah, is Accused No.3 in Crime No. 45/2005 registered under Sections 547 and 380 IPC of Parchur Police Station, Inkollu Circle. It was a case of burglary in the night wherein 41 sovereigns of gold ornaments, 17 tolas of silver ornaments and Rs. 57,000/- cash was stolen. During the course of investigation, the second detenu was arrested on 16-2-2006 and was produced before the learned Addl. Munsif Magistrate on 17-2-2006, who remanded him to judicial custody. Pursuant to the said remand, they were lodged at District Jail, Ongole. Later, the first detenu had moved a bail application and the learned Sessions Judge, Prakasham District granted bail on 8-5-2006 in Crl.M.P.No.429 of 2006. Pursuant to the said order, he was released on bail on 18-7-2006 and now he is at the place of residence, Purugulapeta, Epurupalem village, Chirala Mandal of Prakasham District. As far as the second detenu is concerned, he is now lodged at District Jail, Ongole. Therefore, he prayed that the writ petition be dismissed.

The learned counsel for the petitioner strenuously contended that the police has been continuously harassing them by foisting one case or the other, keeping them in illegal detention, unless an enquiry is conducted about the illegal detention either through the learned District Judge or by independent body, the harassment will not be unabated. He further contended that earlier when they were detained illegally, a writ petition No. 14535 of 2006 was filed wherein a Division Bench of this Court ordered enquiry by the learned District Judge. Unfortunately, as there was no independent evidence, the enquiry was

closed.

A perusal of the order in W.P. No. 11695 of 2005 discloses that the Sessions was directed to make an enquiry about the allegation of illegal detention. The learned counsel had contested the said report, however, their Lordships observed

> "but it would be difficult for this Court in these proceedings to come to a conclusion different than the conclusions arrived at by the Sessions Judge, therefore, we dismiss this petition accepting the report. The report is accepted for the purpose of this writ petition and give liberty to the petitioner to seek any other remedy available to him in law. No order as to costs."

The learned counsel for the petitioner requested that an enquiry in regard to their illegal detention be made through the learned District Judge or by C.B.C.I.D. or by States Human Rights Commission so that the truth will be revealed.

Considering the fact that one of the detenu was released on bail and another detune was in judicial custody, no question survives in this writ petition. However, in view of the allegations made by the writ-petitioner, we deem it fit that the States Human Rights Commission could be requested to enquire into the matter.

With the above said observation, this writ petition is dismissed. No order as to costs.

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J.

CHELAMESWAR, J

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D.

APPARAO,J
Dated: 13-09-2006
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